



HOUSE BILL 683: Commonsense Consumption Act

2013-2014 General Assembly

Committee:	Senate Judiciary I	Date:	June 26, 2013
Introduced by:	Reps. B. Brown, Moffitt, Ramsey, Shepard	Prepared by:	Bill Patterson
Analysis of:	Third Edition		Committee Counsel

SUMMARY: *House Bill 683 would bar civil actions against individuals and companies within the food producing and food advertising industries for claims arising out of weight gain, obesity, or health conditions associated with weight gain or obesity. The bill would also prohibit local governments from limiting the size of soft drinks offered for sale.*

CURRENT LAW: No immunity is currently provided to individuals and companies within the food producing and food advertising industry for civil actions alleging that these companies caused or contributed to obesity and/or obesity related health conditions.

Under Chapters 160A and Chapter 153A, local governments have broad authority to enact ordinances to protect the health, safety, and welfare of its citizens, but are not explicitly given the ability to regulate the size of soft drinks or any other food or beverage.

BILL ANALYSIS:

Section 1: The bill would bar civil actions against packers, distributors, manufacturers, carriers, holders, sellers, marketers, or advertisers of food products for claims arising out of weight gain, obesity, or health conditions associated with weight gain or obesity allegedly caused by long-term consumption of food.¹ The bill would not bar civil actions related to a health condition arising from a single instance of food consumption.

Immunity would not apply to claims for injury caused by food that was adulterated or misbranded in violation of State or federal law,² or to claims based on any other material violation of State or federal law, provided that such violation is knowing and willful. Conduct would be "knowing and willful," only if: (1) it was not required under State or federal law; and (2) it was committed with any of the following:

- a. The intent to injure or deceive consumers;
- b. Actual knowledge that it was injurious to consumers; or
- c. Reason to know that it was reasonably probable to injure consumers.

Sections 2 and 3: The bill would prohibit enactment of any city or county ordinance limiting the size of soft drinks offered for sale.

EFFECTIVE DATE: Section 1 of the act is effective October 1, 2013 and applies to causes of action arising on or after that date. The remainder of the act is effective when it becomes law.

¹ The term "food" means: (1) articles used for food or drink for man or other animals; (2) chewing gum; and (3) articles used for components of any such article. 21 U.S.C. 321(f).

² The Federal Food, Drug, and Cosmetic Act prohibits "[t]he introduction or delivery for introduction into interstate commerce of any food . . . that is adulterated or misbranded" 21 U.S.C. 331(a).

